

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff

v.

\$30,871.00 IN U.S. CURRENCY,

Defendant in rem.

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CIVIL ACTION NO. 4:10-cv-01906

**CLAIMANT’S ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF’S  
VERIFIED COMPLAINT**

MOHAMMAD ADIL SWATI (“Claimant”), by and through his attorney of record, files this Answer and Affirmative Defenses to Plaintiff’s Verified Complaint for Forfeiture in Rem and respectfully states:

1. Claimant admits to the nature of the action in paragraph 1, but denies that Plaintiff is entitled to any relief under the action stated in paragraph 1.
2. Claimant admits as to Defendant in rem in paragraph 2.
3. Claimant admits as to jurisdiction and venue in paragraphs 3 and 4, respectively.
4. The alleged bases for forfeiture in paragraph 5 are legal conclusions and require no response, but in an abundance of caution, they are denied.
5. Claimant has no knowledge of any of the CBP Officers’ actions and investigations and, therefore, denies the allegations in paragraphs 6, 7, 8 and 9.
6. Claimant denies that Plaintiff is entitled to the relief requested in paragraph 10.

**AFFIRMATIVE DEFENSES**

7. The Plaintiff's attempt to forfeit the entire \$30,871.00 is contrary to the Excessive Fines Clause of the Eighth Amendment. A violation of the Clause requires the Court to immediately remit the defendant property to the Claimant. *United States v. Hosep Krikor Bajakajian*, 118 S. Ct. 2028 (1998).

WHEREFORE, the Claimant, Mohammad Adil Swati, respectfully requests the Court to dismiss this cause of action; to order the immediate remission of the defendant property to the Claimant; to award reasonable attorneys fees and other litigation costs pursuant to 28 U.S.C. § 2465(b)1(A); and to award pre-judgment interest pursuant to 28 U.S.C. § 2465(b)(1)(C).

Executed on: July 13, 2010.

Respectfully submitted,  
GIVENS & JOHNSTON, PLLC

By /s/ Joseph Acayan  
Joseph A. Acayan  
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ATTORNEY FOR CLAIMANT

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing Answer and Affirmative Defenses was sent to Albert Ratliff, Assistant United States Attorney, on the 13th day of July, 20 10, at:

Albert Ratliff  
U.S. Attorney's Office  
P.O. Box 61129  
Houston, Texas 77208

/s/ Joseph A. Acayan  
Joseph A. Acayan  
Attorney for Claimant